


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Gordon P. Sharp  
Serial No.: 09/779,379  
Examiner: Masinick, Michael D.  
Filed: February 7, 2001  
Group No.: 2125  
Confirmation No.: 7977  
Docket No.: 19836-00025 (formerly 19836-00011)  
For: Air Quality Monitoring Systems and Methods

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this response is being electronically filed this 19<sup>th</sup> day of June, 2007, and goes to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

  
\_\_\_\_\_  
Lyn Tozeski

**RENEWED PETITION UNDER 37 CFR 1.181, PETITION FOR REVIVAL OF AN  
APPLICATION UNDER 37 CFR 1.137(a) AND PETITION FOR REVIVAL OF  
APPLICATION UNDER 37 CFR 1.137(b)**

This is a Reply to decision on petition, mailed April 23, 2007, in the subject application.

The original petition filed 18 January 2007 was a petition under 37 CFR 1.137(a), but was not treated as such because no petition fee was filed. However, the applicant on March 21, 2006 paid the patent issue fee and included a cover letter with a blanket authorization to charge a deposit account. A copy of the March 21, 2006 filing (including said cover letter) is enclosed.

Accordingly, the original petition should have been treated as a petition under 37 CFR 1.137(a), and the applicant requests that the office reconsider the petition as such.

Also enclosed is an alternative petition under 37 CFR 1.137(b) along with the fee.

As the abandonment was caused by a Patent Office mistake, the applicant requests refunds of any and all petition fees paid or charged in 2007.

The undersigned spoke with Mr. Wood in late April 2007. Mr. Wood suggested the filing of this request for reconsideration, along with a 1.137(b) petition as an alternative. This advice is appreciated and has been followed herein.

The April 18 2007 Decision on Petition recited on page 2 a paragraph from the 13 July 2006 Corrected Notice of Allowance, and found "As such, a response was clearly required..." The undersigned disagrees, and requests reconsideration. The subject paragraph as a whole begins "The issue fee and publication fee (if required)..." It is without question that the issue fee and publication fee had already been paid, thus no additional fee was due in response to the corrected notice. With that qualifier at the beginning of the paragraph, it is absolutely NOT clear that any response was required. In fact, the implication is that no response was required, so applicant did not respond. The language quoted in the Decision also does not state that any "credit for any previously paid fee" is necessary. Thus, as a whole, the form does not clearly require a response.

Beyond the form language, the reason for the issuance of the corrected notice was that another examiner had mistakenly issued a final office action in this application. The Office apparently desired to issue a corrected Notice of Allowance to clarify this mistake by the Office. These actions were of absolutely no doing of the applicant. As the entire basis for the abandonment was due to an Office mistake and a form that is ambiguous at best, the applicant

believes that the abandonment was unavoidable, and requests granting of the petition under 37 CFR 1.137(a) and refund of all petition fees paid in 2007.

As an alternative which is provided only so that the patent will issue without further delay, the delay has been entirely unintentional, and so the 37 CFR 1.137(b) petition should be granted.

Also, if such is still considered necessary in response to the corrected notice of allowance, enclosed is part B of the form, which the undersigned understands will be considered a request to reapply the previously paid issue fee toward the issue fee due in reply to the notice.

If for any reason this paper is found to be incomplete, or if at any time it appears that a telephone conference with counsel would help advance prosecution, please telephone the undersigned in Westborough, Massachusetts, (508) 898-1501. The Commissioner is authorized to charge any fees, and is requested to make refunds, to deposit account 50-1582.

Respectfully submitted,



Brian M. Dingman  
Reg. No. 32,729  
Customer number 28534

# **PART B - FEE(S) TRANSMITTAL**

**Complete and send this form, together with applicable fee(s), to: Mail**

**Mail Stop ISSUE FEE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
or Fax (571)-273-2885**

**INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

28534 7590 07/13/2006

**MIRICK, O'CONNELL, DEMALLIE & LOUGEE  
100 FRONT STREET  
WORCESTER, MA 01608**

## **Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/779,379 02/07/2001 Gordon P. Sharp A0744/7003 7977

**TITLE OF INVENTION: AIR QUALITY MONITORING SYSTEMS AND METHODS**

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$700	\$0	\$700	\$700	10/13/2006

EXAMINER	ART UNIT	CLASS-SUBCLASS
MASINICK, MICHAEL D	2125	700-276000

**1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).**

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47, Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

**2. For printing on the patent front page, list**

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 \_\_\_\_\_  
2 \_\_\_\_\_  
3 \_\_\_\_\_

**3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)**

**PLEASE NOTE:** Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

**4a. The following fee(s) are submitted:**

- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies \_\_\_\_\_

**4b. Payment of Fee(s): (Please first reappay any previously paid issue fee shown above)**

- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

**5. Change in Entity Status (from status indicated above)**

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

**NOTE:** The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature \_\_\_\_\_

Date \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Registration No. \_\_\_\_\_

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.



MIRICK O'CONNELL  
ATTORNEYS AT LAW  
MIRICK, O'CONNELL, DEMALLIE & LOUGEE, LLP

March 21, 2006

**VIA EXPRESS MAIL NO. EL927139864US**

Mail Stop: Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Re: Applicant: Gordon P. Sharp  
Serial No.: 09/779,379  
Filed: February 7, 2001  
For: AIR QUALITY MONITORING SYSTEMS AND METHODS  
Examiner: Michael D. Masinick  
Art Unit: 2125  
Confirmation No.: 7977  
Date Mailed: December 23, 2005  
Our Reference: 19836-00011

Dear Sir or Madam:

Enclosed please find form PTOL-85 and our check in the amount of \$1,030.00, which includes the small entity Issue Fee of \$700.00, Publication Fee of \$300.00 and \$30.00 for ten advance copies, for the subject application.

**Enclosed is a copy of a Supplemental Notice of Allowability dated December 23, 2005 that resets the due date for filing the Issue Fee in the subject application.**

If for any reason these documents are found to be incomplete, or if at any time it appears that a telephone conference with counsel would help advance prosecution, please telephone the undersigned at (508) 791-8500.

If any payment during prosecution is found to be insufficient or if any overpayment is found, please charge any deficiency or credit any overpayment to my deposit account number 50-1582. A copy of this letter is enclosed for use by the Finance Branch in the event that it is necessary to make any charge or credit to my deposit account.



(H:\PAICORP\19836\0001\1A0898112.DOC)

WESTBOROUGH, MA  
508-898-1501 • FAX 508-898-1502

100 FRONT STREET  
WORCESTER, MA 01608-1477  
508-791-8500 • FAX 508-791-8502

BOSTON, MA  
617-261-2417 • FAX 617-261-2418

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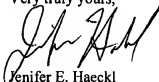
Commissioner of Patents and Trademarks

March 21, 2006

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Please acknowledge receipt of the foregoing by returning the enclosed self-addressed postcard.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jennifer E. Haeckl". The signature is fluid and cursive, with the first name being the most prominent.

Jennifer E. Haeckl

Registration No. 41,812

Customer No. 28534

JEH/cmj

Enclosures



CERTIFICATE OF EXPRESS MAILING

I hereby certify that the attached PTOL-85, including the Issue Fee are being deposited with the United States Postal Service, Express Mail No. EL927139864US, on this 21<sup>st</sup> day of March, 2006, in an envelope addressed to Mail Stop: Issue Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

  
Cynthia M. John



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

MAR 21 2006

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,379	12/23/2005	Gordon P. Sharp	A0744/7003	7977

23628 7590 12/23/2005

WOLF GREENFIELD & SACKS, PC  
FEDERAL RESERVE PLAZA  
600 ATLANTIC AVENUE  
BOSTON, MA 02210-2211

EXAMINER

MASINICK, MICHAEL D

ART UNIT

PAPER NUMBER

2125

DATE MAILED: 12/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.





**SUPPLEMENTAL  
Notice of Allowability**

Application No.	Applicant(s)	
09/779,379	SHARP ET AL.	
Examiner	Art Unit	
Michael D. Masinick	2125	

**The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**  
All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7/20/2005.
2. ☒ The allowed claim(s) is/are 1, 2, 4-8, 16-22, 34-44, 88, 89, 104-108, 113-115, 150-152, 156-164, 169-172, 174-190, 192-194, 196-202 and 204-221.

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some\* c) ☐ None of the:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material

5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_



Application/Control Number: 09/779,379  
Art Unit: 2125

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### DETAILED ACTION

A final office action was mistakenly issued by another examiner who misprinted the serial number on his action for another case. This is unrelated to the current case and this final action is withdrawn. This application is allowed for reasons previously set forth.

### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael D. Masinick whose telephone number is (571) 272-3746. The examiner can normally be reached on Mon-Fri, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on (571) 272-3749. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MDM

LEO PICARD  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100